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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
SOUTHERN CALIFORNIA,  
*Plaintiff,*

v.

UNITED STATES IMMIGRATION  
AND CUSTOMS ENFORCEMENT,  
UNITED STATES DEPARTMENT  
OF HOMELAND SECURITY,

*Defendants.*

Case No. 2:22-CV-04760-SHK

**DECLARATION OF EUNICE CHO  
IN SUPPORT OF PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT AGAINST  
DEFENDANTS DEPARTMENT OF  
HOMELAND SECURITY AND  
DEPARTMENT OF HOMELAND  
SECURITY – OFFICE OF  
INSPECTOR GENERAL**

Honorable Shashi H. Kewalramani  
United States Magistrate Judge

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19 *Attorneys for Plaintiff*  
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1 I, Eunice H. Cho declare as follows:

- 2 1. I am counsel for Plaintiff ACLU of Southern California in the above-
- 3 captioned matter. I submit this declaration in support of Plaintiff's Motion
- 4 for Summary Judgment against Defendants Department of Homeland
- 5 Security ("DHS") and DHS Office of Inspector General ("DHS-OIG"). I
- 6 have personal knowledge of the facts set forth below, and if called as a
- 7 witness, I could and would competently testify thereto.
- 8 2. I have reviewed all letters and documents produced to Plaintiff by Defendants
- 9 DHS, DHS-OIG, and Immigration and Customs Enforcement ("ICE").
- 10 3. Attached hereto as **Exhibit A** is a true and correct copy of documents from
- 11 Defendant DHS-OIG's production of which Plaintiff challenges Defendants'
- 12 partial withholding and redaction. These documents include the following:
- 13 a. Redaction of DHS-OIG's Report of Investigations and draft media
- 14 statements related to the death of Johana Medina Leon, including
- 15 diagnostic questions and medical tests by ICE medical staff prior to
- 16 her release from custody. These documents are located at: November
- 17 2022: 0015, 0016, 0020, 0025-26, 0033, 0039, 0041, 0050; December
- 18 2022: 0037, 0044, 0045, 0049, 0051, 0055, 0056, 0070, 0076, 0084,
- 19 0097, 0099; March 2023: 0049; and June 2023: 001.
- 20 b. Redaction of Johana Medina Leon's death certificate and records
- 21 discussing her cause of death. These documents are located at
- 22 November 2022: 0037-0038; and December 2022: 0092.
- 23 c. Redaction of DHS-OIG's Report of Investigations and Memoranda of
- 24 Activity described as "immigration information" related to Teka
- 25 Gulema and Johana Medina Leon. The redacted information appears to
- 26

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1 be statements made by Medina Leon's ICE Deportation Officer related  
 2 to ICE's decision to release her from custody, information related to  
 3 Medina Leon's entry to the United States and ICE's attempts to obtain  
 4 travel documents to deport Mr. Gulema. These documents are located  
 5 at: November 2022: 0023, 0024, 0028; December 2022: 0040, 0042,  
 6 0044, 0067-68, 0075; June 2023: 001, 0118, 0151, and 0157.

7 d. An attachment to a DHS-OIG Report of Investigation regarding Mr.  
 8 Gulema indicating that 581 pages of attached documents were  
 9 included in the investigatory file. This document is located at: June  
 10 2023: 0182.

11 Exhibit A also includes a letter from legal service providers representing  
 12 immigration detainees as part of the National Qualified Representative  
 13 Program ("NQRP") to the DHS Office of Civil Rights and Civil Liberties.  
 14 This document is located at: August 2023: 0004-0011. Plaintiff does not  
 15 challenge any redactions in this document.

16 4. Attached hereto as **Exhibit B** is an Appendix of Plaintiff's challenged  
 17 withholdings, including document Bates numbers, document description,  
 18 challenged exemptions at issue, and entry number on Defendants' Vaughn  
 19 Index.

20 5. On November 23, 2022, DHS-OIG made its first production in response to  
 21 Plaintiff's FOIA request. In this first production, DHS-OIG released 4 pages  
 22 in full and 117 pages in part. It concluded that 127 pages were duplicates,  
 23 and referred 220 pages to U.S. Immigration and Customs Enforcement  
 24 ("ICE") and referred 233 pages to U.S. Department of Justice, Executive  
 25 Office for United States Attorneys ("DOJ EOUSA"). Attached hereto as  
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1       **Exhibit C** is a true and correct copy of DHS-OIG’s November 23, 2022  
2       cover letter.

3       6. On December 21, 2022, DHS-OIG made its second production in response to  
4       Plaintiff’s FOIA request. In this second production, DHS-OIG released 60  
5       pages in full and 128 pages in part. It referred 280 pages to ICE, and 185  
6       pages to DOJ EOUSA. Attached hereto as **Exhibit D** is a true and correct  
7       copy of DHS-OIG’s November 23, 2022 cover letter.

8       7. On January 30, 2023, DHS-OIG made its third production in response to  
9       Plaintiff’s FOIA request. In this third production, DHS-OIG released 5 pages  
10      in full and 1 page in part, and concluded that 1,072 pages were non-  
11      responsive. Attached hereto as **Exhibit E** is a true and correct copy of DHS-  
12      OIG’s January 30, 2023 cover letter.

13      8. On February 27, 2023, DHS-OIG did not produce any documents in response  
14      to the Request. Instead, DHS-OIG sent Plaintiff’s counsel a letter, stating that  
15      it had reviewed 1,140 pages of records that month, but determined that none  
16      of the records were responsive to the request. Attached hereto as **Exhibit F** is  
17      a true and correct copy of DHS-OIG’s February 27, 2023 cover letter.

18      9. On March 30, 2023, DHS-OIG made its fourth production in response to  
19      Plaintiff’s FOIA request. In this production, DHS-OIG released 10 pages in  
20      full and 44 pages in part. It withheld 113 pages in full, determined that 736  
21      pages were non-responsive and that 61 pages were duplicates. DHS-OIG  
22      referred 9 pages to ICE, and 32 pages to U.S. Customs and Border Protection  
23      (CBP). DHS-OIG also stated that this would be its “final” production.  
24      Attached hereto as **Exhibit G** is a true and correct copy of DHS-OIG’s  
25      March 30, 2023 cover letter.

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1 10. On June 29, 2023, DHS-OIG made its fifth production in response to  
2 Plaintiff's FOIA request. In this production, DHS-OIG released 48 pages in  
3 full and 74 pages in part, withheld 74 pages in full, concluded that 17 pages  
4 were non-responsive and that 757 pages were duplicates. DHS-OIG stated  
5 that it had sent 8 pages to another, unnamed DHS component for  
6 consultation; that it had referred 328 pages to ICE, and 1 page to the DHS  
7 Office for Civil Rights and Civil Liberties ("CRCL"). Attached hereto as  
8 **Exhibit H** is a true and correct copy of DHS-OIG's June 29, 2023 cover  
9 letter.

10 11. On July 31, 2023, DHS-OIG made its sixth production in response to  
11 Plaintiff's FOIA request. In this production, DHS-OIG released 91 pages in  
12 part. It withheld 180 pages in full, determined that 20 pages were non-  
13 responsive and that 644 pages are duplicates, and referred 583 pages to ICE.  
14 Attached hereto as **Exhibit I** is a true and correct copy of DHS-OIG's July  
15 31, 2023 cover letter.

16 12. On August 2, 2023, DHS-OIG made its seventh and last production in  
17 response to Plaintiff's FOIA request. In its production, DHS-OIG released 6  
18 pages in full, and 5 pages in part. Attached hereto as **Exhibit J** is a true and  
19 correct copy of DHS-OIG's August 2, 2023 cover letter.

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13. Below is a summary of DHS-OIG's processing and production:

	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023	Mar. 2023	Jun. 2023	Jul. 2023	Aug. 2023	Total
<b>Released in Full</b>	4	60	5	0	10	48	0	6	133
<b>Withheld in Part</b>	117	128	1	0	44	74	91	5	460
<b>Withheld in Full</b>	0	0	0	0	113	74	180	0	367
<b>Duplicates (not produced)</b>	127	0	0	1140	61	757	644	0	2729
<b>Non-Responsive (not produced)</b>	0	0	1072	0	736	17	20	0	1845
<b>Referred to ICE</b>	220	280	0	0	9	328	583	0	1420
<b>Referred to DOJ EOUSA</b>	233	185	0	0	0	0	0	0	418
<b>Referred to unnamed DHS component</b>	0	0	0	0	0	8	0	0	8
<b>Referred to DHS CRCL</b>	0	0	0	0	0	1	0	0	1
<b>Referred to DHS CBP</b>	0	0	0	0	32	0	0	0	32

14. Attached as **Exhibit K** is a true and correct copy of documents from pages 96 to 99 of Defendant DHS-OIG's June 29, 2023 production.

15. I have removed password protection from the .pdf files at Exhibits A and C because Defendant OIG produced several tranches of documents and letters to Plaintiff in a password protected pdf form. I have done so to enable the court and public to view the records as the Court's ECF system does not allow filing of password protected pdf documents, and requires that password protection be turned off prior to filing.<sup>1</sup>

<sup>1</sup> U.S. District Court, Central District of California, *Technical PDF Related Questions*, <https://www.cacd.uscourts.gov/e-filing/faq/pdf-related%20questions> [ (last visited Feb. 15, 2024) ("The system will not accept documents which have security measures turned on (for example, password protection in Adobe.) Remove the security features from the document and submit your document again.")].

1 16. I also appended the .pdf files at Exhibit A in two ways. First, because  
2 Defendant OIG did not place Bates stamps on any documents upon  
3 production, I have added the month, year, and a Bates stamp number to  
4 correspond with the page ordered for ease of reference. Second, due to the  
5 volume of redactions on the provided documents, I have highlighted in  
6 yellow the specific redactions that the Plaintiff challenges for ease of  
7 reference. I have in no other way altered the documents provided by  
8 Defendants nor have I altered the substance of the document in any way.

9  
10 I declare under penalty of perjury under the laws of the United States of  
11 America that the foregoing is true and correct.

12 Executed on February 22, 2023, at Washington, D.C.

13 /S/ Eunice H. Cho

14 Eunice H. Cho  
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